

## **REMARKS**

After entry of this amendment claims 32-39, 42-46, 52-56 and 59-71 will be pending. Claims 1-16, previously withdrawn, have now been cancelled, as have claims 40, 41, 57 and 58. Claims 32, 61 and 70 have been amended to clarify the relationship among the components. Claim 32 has been amended to remove the port element, while claim 39 has been amended to incorporate a port. Claim 42 has been amended to change its dependency. Claims 45, 46 and 68 have been minorly amended. No new matter has been added.

The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

By amending the application, the Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants reserve the right to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

### **Related International Case**

Applicants have attached a supplemental IDS that includes the written opinion recently provided by the International Preliminary Examination Authority concerning the international counterpart of the current application. Applicants would like to point

out that the Examination Authority found that all of the claims, as filed, were novel and involved inventive step over the prior art. Applicants submit that this opinion bears positively on the patentability of the presently claimed invention.

#### Claim Objections

The Examiner objected to claims 61-71 as being unclear as to whether the TED is the sole source of the conditioned air. Applicants assert that a skilled artisan would understand that the TED could be the sole source of conditioned air, but that is not necessarily required as multiple TEDs could be utilized as well as TEDs in combination with other fluid conditioning devices. The applicants respectfully request that this objection be withdrawn.

#### Rejection claims 32-40 and 52-56 under 35 U.S.C. §103

The Examiner rejected claims 32-40 and 52-56 under 35 U.S.C. §103 as obvious over U.S. Patent No. 6,786,541 to Haupt et al. (Haupt) in view of U.S. Patent No. 6,109,688 to Wurz et al. (Wurz). This rejection is moot.

The Examiner has not demonstrated how Haupt alone, or in combination with Wurz, teaches or suggests the presently claimed invention. In particular, the Examiner has not demonstrated how Haupt and/or Wurz teach or suggest a seat where ambient air drawn through a flow control layer and temperature conditioned air drawn through conduit are mixed in the insert, as in claim 32. Moreover, the Examiner has not demonstrated a seat with a TED and a fan that draws ambient air through the seat cover and draws temperature conditioned air from the TED, as in claims 61 and 70. For at least these reasons, Applicants request that this rejection be withdrawn.

#### Rejection claims 45 and 58 under 35 U.S.C. §103

The Examiner rejected claims 45 and 58 under 35 U.S.C. §103 as obvious over Haupt in view of U.S. Patent No. 6,189,966 to Faust et al. (Faust). This rejection is moot.

For essentially the same reasons above, the Examiner has not demonstrated how Haupt alone, or in combination with Faust, teaches or suggests the presently

claimed invention. For at least these reasons, Applicants request that this rejection be withdrawn.

Rejection claims 59 and 62 under 35 U.S.C. §103

The Examiner rejected claims 45 and 58 under 35 U.S.C. §103 as obvious over Haupt in view of U.S. Patent No. 6,425,637 to Peterson (Peterson). This rejection is moot.

For essentially the same reasons above, the Examiner has not demonstrated how Haupt alone, or in combination with Peterson, teaches or suggests the presently claimed invention. For at least these reasons, Applicants request that this rejection be withdrawn.

Rejection claims 41-46, 57, 60, 61 and 63-71 under 35 U.S.C. §103

The Examiner rejected claims 45 and 58 under 35 U.S.C. §103 as obvious over Haupt in view of Rhodes. This rejection is moot.

For essentially the same reasons above, the Examiner has not demonstrated how Haupt alone, or in combination with Rhodes, teaches or suggests the presently claimed invention. For at least these reasons, Applicants request that this rejection be withdrawn.

**CONCLUSIONS**

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-1097 for any fee which may be due.

Date: December 15, 2005



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